## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

| UN | NITED STATES OF AMERICA  | )  |
|----|--|--|
|    | Plaintiff,   | ) 8:08MJ185<br>)   |
|    | vs.  | ) DETENTION ORDER  |
| JO | OHN OGLESBY,   | )  |
|    | Defendant.   | <b>'</b>   |
| A. | Order For Detention After waiving a detention hearing pursuant Act on October 14, 2008 (Filing No. 25), the detained pursuant to 18 U.S.C. § 3142(e) a   | Court orders the above-named defendant   |
| B. | The Court orders the defendant's detention<br>X By a preponderance of the evide<br>conditions will reasonably assure the   | because it finds: ence that no condition or combination of appearance of the defendant as required. t no condition or combination of conditions  |
| C. | distribute marihuana in minimum sentence of ten imprisonment.  (b) The offense is a crime of (c) The offense involves a national content of the co | nd includes the following: e offense charged: to distribute and possess with intent to violation of 21 U.S.C. § 846 carries a years imprisonment and a maximum of life violence.   |
|    | may affect wheth The defendant h X The defendant h X The defendant is The defendant of ties. Past conduct of ties.  A The defendant h The defendant h The defendant h The defendant h Court proceeding   | of the defendant including:  appears to have a mental condition which her the defendant will appear.  as no family ties in the area.  as no steady employment.  as no substantial financial resources.  not a long time resident of the community.  does not have any significant community.  the defendant:  as a history relating to drug abuse.  as a history relating to alcohol abuse.  as a significant prior criminal record.  has a prior record of failure to appear at |

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|   | Release pending trial, sentence, appeal or completion of sentence.   |  |  |
|---|--|--|--|
|   | (c) Other Factors: The defendant is an illegal alien and is subject to   |  |  |
|   | deportation.   |  |  |
|   | The defendant is a legal alien and will be subject to deportation if convicted.  |  |  |
|   | The Bureau of Immigration and Custom Enforcement   |  |  |
|   | (BICE) has placed a detainer with the U.S. Marshal Other:  |  |  |
| Χ   |  |  |  |
|   | release are as follows: The nature of the charges in the Indictment and the defendant's criminal history.                            |  |  |
| Χ   | (5) Rebuttable Presumptions  |  |  |
|   | In determining that the defendant should be detained, the Court also relied  |  |  |
|   | on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) which the Court finds the defendant has not rebutted:    |  |  |
|   | X (a) That no condition or combination of conditions will reasonably   |  |  |
|   | assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that |  |  |
|   | the crime involves:  |  |  |
|   | (1) A crime of violence; or  |  |  |
|   | X (2) An offense for which the maximum penalty is life imprisonment or death; or   |  |  |
|   | X (3) A controlled substance violation which has a maximum   |  |  |
|   | penalty of 10 years or more; or  |  |  |
|   | <ul> <li>(4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3)</li> </ul>   |  |  |
|   | above, <u>and</u> the defendant has a prior conviction for one   |  |  |
|   | of the crimes mentioned in (1) through (3) above which   |  |  |
|   | is less than five years old and which was committed  |  |  |
|   | while the defendant was on pretrial release.  X (b) That no condition or combination of conditions will reasonably                   |  |  |
| assure the appearance of the defendant as required and the safety |  |  |  |
|   | of the community because the Court finds that there is probable  |  |  |
|   | cause to believe:  X (1) That the defendant has committed a controlled   |  |  |
|   | substance violation which has a maximum penalty of   |  |  |
|   | 10 years or more.  |  |  |
|   | (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in                    |  |  |
|   | relation to any crime of violence, including a crime of  |  |  |
|   | violence, which provides for an enhanced punishment  |  |  |
|   | if committed by the use of a deadly or dangerous   |  |  |
|   | weapon or device).   |  |  |

 D. Additional Directives
 Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

 The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending

 appeal; and

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2. The defendant be afforded reasonable opportunity for private consultation with counsel; and

3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: October 16, 2008. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge